

## NEW RULE REQUIRES STRICTER EMPLOYER AND PERSUADER REPORTING UNDER LMRA

A new rule issued by the Office of Labor Management Standards clarifies what constitutes "advice" under Section 203 of the Labor Management Reporting and Disclosure Act (LMRDA). Section 203, in broad terms, requires two reports to be filed when an employer and a labor consultant make an arrangement or agreement that the consultant will persuade workers to resist an organizing campaign or collective bargaining effort by a union. The new rule implements stricter reporting requirements for employer's and the consultants they hire.

Under previous rule interpretation, "persuader agreements" only had to be reported if the consultant had direct contact with employee and if the consultant only provided the employer with materials that the employer could accept or reject. Indirect consultant activities is now required to be reported under the new rules. Now, reporting requirements are triggered by: 1) consultants direct contact with employees with an object to persuade them; 2) planning, directing, or coordinating activities undertaken by supervisors or other employer representatives including meetings and interactions with employees; 3) providing material or communications for dissemination to employees; 4) conducting a union avoidance seminar for supervisors or other employee representatives; and 5) developing or implementing personnel policies, practices, or actions for the employer. Consultants are also required under the final rule to report when they hold union avoidance seminars for employers, but employers are not required to report attendance at such seminars.

The re-interpretation of "advice" to include indirect persuader activities may lead to a significant increase in the reporting of persuader agreements. This increase in reporting will provide workers with essential information about the source of materials and policies intended to influence their Section 7, including if it is a third-party persuader hired by the employer. The rule change serves to protect employees' right to organize and bargain collectively by giving them greater access to information on which to base their decisions.

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